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Baldwin now seeks to bring § 1983 claims for unspecified injunctive relief and monetary damages against the Department of Homeland Security.¹

The court must dismiss any action or claim filed by a prisoner against a governmental entity or officer if the court determines the action or claim is “frivolous, malicious, or fails to state a claim upon which relief may be granted; or seeks monetary relief from a defendant who is immune from such relief.” 28 U.S.C. § 1915A(b)(1), (2). A “frivolous” claim is one that “lacks an arguable basis either in law or in fact.” *Neitzke v. Williams*, 490 U.S. 319, 325 (1989) (interpreting “frivolous” in former version of 28 U.S.C. § 1915(d)).

To state a claim under § 1983, the plaintiff must state facts showing that a person acting under color of state law undertook conduct that violated the plaintiff’s constitutional rights. *See Cooper v. Sheehan*, 735 F.3d 153, 158 (4th Cir. 2013) (“Section 1983 of Title 42 creates a cause of action against any person who, acting under color of state law, abridges a right arising under the Constitution or laws of the United States.”). Neither the Department of Homeland Security, as a federal agency, nor any of its employees, act under color of state law so as to be subject to suit under § 1983. Therefore, Baldwin cannot prevail in a § 1983 action

¹ Baldwin identifies his defendants as “Homeland Security (H.S.I.) and Department of Homeland Security,” but does not explain the difference between these entities, and I find none.

against the only defendant he has named, and accordingly, I will summarily dismiss his complaint under § 1915A(b)(1) as frivolous.

A separate Final Order will be entered herewith.

DATED: February 18, 2016

/s/ James P. Jones
United States District Judge